

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7779

Petition of New Cingular Wireless PCS, LLC,)
d/b/a AT&T Mobility ("AT&T"), for a certificate)
of public good, pursuant to 30 V.S.A. § 248a, for)
the installation of telecommunications equipment)
in Fairlee, Vermont)

Order entered: 9/19/2011

I. INTRODUCTION

In this Order, the Vermont Public Service Board ("Board") approves the application filed on August 17, 2011, by New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility ("AT&T or the "Petitioner"), pursuant to 30 V.S.A. § 248a, and the Board's Amended Procedures Order ("Procedures Order"),¹ and grants the Petitioner a certificate of public good ("CPG") authorizing modifications to a communications facility located in Fairlee, Vermont (the "Project").

II. BACKGROUND

This case involves a petition and prefiled testimony filed by the Petitioners on August 17, 2011, requesting that the Board issue a CPG, pursuant to 30 V.S.A. § 248a, authorizing modifications to an existing communications facility. The Petitioner is seeking approval for the Project as de minimus modifications to the existing facility, pursuant to § 248a(b)(2).

On August 30, 2011, the Petitioner filed supplemental information regarding the application.

No comments or requests for hearing regarding the Project have been filed with the Board.

1. *Amended order implementing standards and procedures for issuance of a certificate of public good for communications facilities pursuant to 30 V.S.A. § 248a*, Order issued August 10, 2011.

The Board has determined that the petition and prefiled testimony have effectively addressed the applicable substantive criteria of 30 V.S.A. § 248a. Consequently, we find that the procedure authorized by § 248a is sufficient to satisfy the public interest, and no hearings are required.

III. FINDINGS

1. The Project involves modifications to an existing telecommunications facility located at 289 Alan Road in Fairlee, Vermont. Petition at Section 1.
2. The Project involves the installation of a 50 kW emergency backup generator on a new 5-foot by 10-foot concrete platform, an associated underground fuel storage tank, and cabling and conduit to connect the generator to the existing equipment shelter, within the existing facility compound. Petition at Sections 1 and 2.
3. The modification will not increase the height or width of the existing facility or support structure, will not involve improvements on the support structure, nor will the modifications create impervious surfaces surrounding the facility.² Finding No. 2, above.

IV. DISCUSSION and CONCLUSION

Pursuant to 30 V.S.A. § 248a(b)(2), the Procedures Order, at Section II, defines a de minimus modification as:

the addition, modification, or replacement of telecommunications equipment, antennas, or ancillary improvements on a telecommunications facility or existing support structure, or the reconstruction of such facility or support structure, provided:

- (a) the height and width of the facility or support structure, excluding equipment, antennas, or ancillary improvements, are not increased;
- (b) the total amount of impervious surface, including access roads, surrounding the facility or support structure is not increased by more than 300 square feet;

2. The Project will involve creation of impervious surface within the existing facility, but will not involve the creation of any new impervious surface surrounding the facility.

(c) the addition, modification, or replacement of equipment, antennas, or ancillary improvements does not increase the height or width of the facility or support structure by more than 10 feet;

(d) the addition, modification, or replacement of equipment, antennas, or ancillary improvements on the support structure, excluding cabling, does not increase the aggregate surface area of the faces of the equipment, antennas, or ancillary improvements on the support structure by more than 75 square feet.

For purposes of this definition, where the proposed ancillary improvements will be installed on, within, or at the base of a building, the ancillary improvements may be excluded from the aggregate surface area calculation in subsection (d) provided that: (1) the ancillary improvements comply with the limitations in subsection (c) measured from the outer walls of the building (for width) and the highest existing element of the building (for height); (2) the aggregate surface area of the antennas and equipment other than ancillary improvements does not exceed 75 square feet; and (3) any other additions, modifications, or replacements associated with the facility otherwise comply with subsections (a) and (b).

Further, pursuant to § 248a(k) and Section VIII of the Procedures Order, regarding de minimus modifications:

If no objections to the classification of the project are timely filed with the Board, a CPG shall be issued without further proceedings.

The proposed Project will consist of modifications to an existing telecommunications facility that will not increase the height or width of the facility, will not create any impervious surfaces surrounding the facility, and will not involve changes to the existing support structure. Therefore, the Project qualifies as "de minimus modifications" to an existing facility pursuant to § 248a(b)(2). Further, no objection to the classification of the Project as de minimus modifications has been filed with the Board.

Based upon all of the above evidence, the public interest is satisfied by the procedures authorized in 30 V.S.A. § 248a, and the proposed Project will promote the general good of the State.

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the modifications to the wireless communications facility at the location specified in the above findings, by New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont in accordance with 30 V.S.A. § 248a(a), and a certificate of public good to that effect shall be issued in this matter.

Dated at Montpelier, Vermont, this 19th day September, 2011.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: September 19, 2011

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.